

MINUTES OF THE WORK SESSION MEETING OF  
THE SPRINGFIELD CITY COUNCIL HELD  
MONDAY, MARCH 14, 2005.

The City of Springfield council met in a work session in the Jesse Maine Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, March 14, 2005 at 5:30 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Fitch, Ballew, Ralston, Lundberg, Woodrow and Pishioneri. Also present were City Manager Mike Kelly, Assistant City Manager Cynthia Pappas, City Attorney Joe Leahy, City Recorder Amy Sowa and members of the staff.

1. Discussion and Application Review of Candidates for the Two City-Appointed Members of the Glenwood Urban Renewal Advisory Committee.

Community Development Manager John Tamulonis presented the staff report on this item. The City Council's appointments follow Lane County's appointments of Allan Kolb to Position #1, resident of mobile home park in the unincorporated area of Glenwood, and Joan Armstead to Position #2, homeowner in the unincorporated area of Glenwood. City Council's actions would precede the SEDA Board interviewing and making five appointments to the Glenwood Urban Renewal Advisory Committee. The sequential appointments allow unpicked applicants eligible for multiple positions to be considered in subsequent appointments.

Attachment 2, Matrix of Applicants include in the agenda packet, provided a snapshot of some information available on the applications. It also indicated if there were additional positions the applicant could fill, if not selected by County Commissioners or by council, when SEDA reviewed applications.

The applications in Attachment 3, included in the agenda packet, were sorted by eligibility and there were three applicants for each position.

- Position #3 Retail business owner/operator in Glenwood's unincorporated area.
- Position #4 Industrial owner/operator in Glenwood's unincorporated area.

Regarding term of appointment, three years was suggested as reasonable for meaningful involvement in the issues typical to programs of this longevity. It was also council's discretion to consider staggering the initial term of appointment to allow for some but not wholesale turnover in the committee's membership.

Once all the members of the Advisory Committee were appointed, the SEDA Board would likely follow through on assigning the task of exploring the parameters of Strategy #3 regarding residential development and redevelopment and providing SEDA with recommendations.

Mr. Tamulonis discussed the applicants for the two positions to be appointed by the city. Those that are not appointed by the city could go into Position #7, which is an at-large position.

Councilor Lundberg discussed several of the applicants who would be qualified for Position #4. She had a preference for John Oldham because of his years and experience in Glenwood.

Mr. Tamulonis said he was hoping to have a preference for each of the positions by the end of the meeting.

Councilor Ballew said there was a very good response with very good candidates. She asked how staff was able to get such a good turnout of applicants.

Mr. Tamulonis said the recruitment went out twice. He discussed several applicants who qualified for both county and city positions.

Councilor Fitch agreed with appointing Mr. Oldham to Position #4. She said he would do a good job representing business in Glenwood and has attended a number of the meetings already held in Glenwood. She said the other two applicants could be considered for the other position. She recommended Steve Roth for Position #3 because he does have a retail business and that is needed. All of the applicants are very qualified.

Councilor Woodrow agreed to recommend appointing John Oldham to Position #4 and Steve Roth to Position #3 for the reasons stated.

Mr. Tamulonis said he would bring Mr. Oldham and Mr. Roth back for appointment during a Regular Meeting. The remaining candidates would go into the other positions that the SEDA Board could appoint. He said the county was considering staggering the start date for their two appointed positions, but he has not been able to confirm that. He suggested the city appointed positions also are staggered.

Discussion was held regarding staggering positions.

Mr. Tamulonis said he would confirm with the county how they had chosen to stagger their positions and bring back a recommendation to council at their next meeting.

Mayor Leiken suggested keeping the applicants that they do not appoint engaged and involved in the urban renewal. He discussed Jim Peterson and the assets he could bring to the committee.

Mr. Tamulonis said he could keep the list of those that were not appointed and send agendas to them so they would know when meetings are coming.

## 2. Funding of Capital Activity.

Technical Services Manager Len Goodwin presented the staff report on this item.

Mr. Goodwin distributed an updated version of a chart that was included in the agenda packet regarding Systems Development Charges and the graph version of this chart. The chart represented an expanded list of cities for comparisons as requested by the Mayor. The chart included all SDC's, including transportation, stormwater, sanitary sewer, parks and water. He said he left off parks and water from the graph as it was too difficult to portray on the graph.

Mr. Goodwin said the four issues he chose to discuss were related to the city's existing SDC methodologies and how they were applied. Pursuant to ORS, the city provides credits for qualified public improvements that are built offsite by developers. He referred to the legal sized chart in the agenda packet which showed SDC credits that were in place and those that were most

likely pending. Those credits are required by law and the city does not have an option. The credit is limited to the credit on the SDC's the developer will pay when their development comes in. Once the development comes in, if the amount of the SDC's is less, the developer does not receive the full advantage of their credits. Some cities allow those credits to be transferable, but Springfield does not transfer those credits. This is something for council to keep in mind as they set goals and priority targets. Most of the large developments will most likely involve offsite improvements because they are not able to handle all of the stormwater or sanitary system solely on their site. These things do affect when the money is available to build projects.

Mr. Goodwin said the second issue to consider is the program in place in downtown Springfield. This program foregoes SDC's through December 2006. So far under the current version of the program, the city has waived about \$153,000 in SDC's. There are a number of projects that could have an impact on that, such as the Public Safety Facility and development along the riverfront. The council could continue that program or change it at any time. There is no issue in terminating that program early. Businesses that have already applied would continue to receive credit, but expectations of future developers would not be adversely affected in a way that would present any risk to the city.

Councilor Fitch asked for an example of a development that utilized that credit.

Mr. Goodwin gave several examples. Mr. Goodwin said the third issue was brought to council's attention by several citizens. This issue related to a provision in the city code that if a business wanted to take advantage of an abandoned building, they would have to apply within two years of the building becoming vacant. He gave an example. This program was put into place a number of years ago. Staff brought the option of extending it to five years in 2000, but council did not approve of that extension. By lengthening that period, it could perhaps make a site more attractive. Staff had noted anecdotal incidents when a number of developers have come in, but when they discovered how large the SDC's would be without the credit, they chose not to locate at that site. Businesses have walked away, perhaps due to lack of credit on buildings that have been vacant for a long time. Lengthening the term to three to five years may encourage people not to develop it because they have a longer time frame. That is a policy decision that only council could make.

Mr. Goodwin said the last issue was that both the sanitary sewer and storm drainage master plans were both very much out of date. Staff has been working on bringing those up-to-date. There would be a number of storm drainage projects that would develop and would have to be funded by user rates or SDC's. There is not as large a list regarding sanitary sewer, but there would be more developments and projects required once the master plan is completed. There is about \$5M in unmet capital project needs that are currently on the list. Staff asked council for direction regarding stormwater and sanitary SDC's.

Mr. Goodwin said the SDC's need updating. In 2000 when the methodology was considered the master planning was in such a poor condition that it was not justifiable to develop a reimbursement component to the SDC. That is why there are only improvement SDC's. Whatever is done with SDCs' will have an effect when determining rates. He gave some of the options. He referred to the chart and graph. Springfield's SDC's are not in the upper range compared to other cities. He noted that Environmental Services Director Susie Smith, City Engineer Al Peroutka and Transportation Manager Nick Arnis were also available to answer questions.

Councilor Ballew said based on input from various committees she has served on relative to Metro Wastewater, there is a real sentiment in the community that growth should pay its own way. Partly because of that, the MWMC has a combined reimbursement as well as an improvement SDC and payment of rates. However it is done, SDC's don't bring in enough to pay for a project. The bottom line is that enough money must be generated to make the system work and keep them maintained. There needs to be a good work plan to decide how much is needed to cover these costs.

Councilor Ralston said he is surprised that there are four cities without stormwater. He asked how that was possible.

Ms. Smith said Bend and Redmond have different stormwater issues because they don't have the amount of rainfall Eugene and Springfield have. Those two cities address stormwater issues in association with its transportation system. Bend and Redmond have significant General Fund resources as well. Albany has not created a stormwater utility yet, but is in the process of creating such a system. Their stormwater from operations programs and capital are funded through other means, such as a combination of General Fund and other sewer funds.

Mr. Goodwin said Lake Oswego is also a heavy user of General Fund resources for storm drainage.

Councilor Ralston said new development needs to pay its fair share. He noted that the chart does not indicate how Springfield's user fees rank with these other cities. He feels we need to look at both user fees and SDC's and he would like that comparison.

Mr. Goodwin said last week staff brought forward a limited comparison of user rates. On March 28<sup>th</sup>, he will bring back a more extensive example.

Councilor Lundberg asked if it was possible to get a comparison of why Bend is able to carry the load of stormwater by using General Fund resources. She would like to see average value per capita and how they relate.

Councilor Fitch asked if they could also include the impact Measure 50 had on Springfield compared to these other cities.

Mayor Leiken discussed how some of these other communities have transformed and some of the reasons they could use General Fund resources.

Councilor Fitch commented on item #2, page 3 of Attachment A in the agenda packet. She said she approved of the SDC encouragement in downtown and that it will expire in 2006. The idea was to inspire other redevelopment. She discussed credits on abandoned uses, and suggested that two years may be too short of a time period for these credits. She suggested maybe three to four years and would be willing to discuss this. She does want to keep activity moving along in these facilities. She discussed the SDC Update Citizens Advisory Committee appointed for a short time by the Mayor. It was a very diverse group of citizens who were able to examine the statistical information regarding SDC's and projects and come to agreement. She discussed redevelopment and new development within our city and urban growth boundary. There needs to be a balance. She said she does not have a problem with charging the fee and having development pay its fair share. She said it is important to do the master planning.

Councilor Pishioneri asked at what point in the planning process the credit towards the previously paid SDC get credited toward the new development. He asked if those timelines were under the control of the developer or of the city.

Mr. Goodwin said the date is two years back from the date the developer files.

Mr. Peroutka said that was correct. The SDC is charged at the time of obtaining a building permit and that is when it is determined whether or not there is a credit.

Councilor Pishioneri asked about city involvement prior to the filing. He asked if the developer would have to wait on the city before they could apply and, if so, if that would delay it to a point that they would miss out on the SDC credit.

Mr. Kelly asked if there had been a case where a developer had been delayed by the city causing them to not get their credit.

Mr. Peroutka said that has not happened in the past.

Mr. Kelly said the two year period usually occurs when a site is abandoned. There is very little the city has done to use up part of that two-year time frame.

Mr. Goodwin said two years has been a reasonable amount of time historically, but sometimes it takes more than two or three years to market a piece of property.

Mr. Grile said it may occur if the developer started the land use process toward the end of the two year period, rather than the city taking too long to process their application.

Councilor Fitch asked about Booth Kelly which is owned by the city. She asked if the two-year period pertained to these properties as well.

Mr. Peroutka said as a multi-use facility it may be handled differently.

Mr. Kelly said that has not happened in multi-use facilities. He gave an example of businesses in malls.

Mr. Leahy said Booth Kelly is in the downtown zone.

Councilor Ballew said she would like to see staff move forward with the sanitary sewer and storm drainage master plan. Reimbursement and improvement SDC's should be calculated. She said it costs a lot of money to run a city. The city wants to be cooperative, but there needs to be enough revenue to run the city. She referred to the chart showing SDC credit on page 7, Attachment A in the agenda packet. She said there is a lot of money extended as credit without an estimated project cost and it looks out of balance. It could be due to a number of unknowns regarding project areas. As a policy issue, the city wants to be sure as we are extending credits, that we are not being overly generous. She asked if the city had a way to assure costs would be recovered as other people are connected to the sewer plant.

Mr. Goodwin said there were a number of ways the city could recover those costs.

Mr. Peroutka said the city does not have an in lieu of assessment fee for stormwater systems, only the SDC, which pays for the large pipes. The sanitary sewer system has both the reimbursement and improvement component of the SDC and a component in lieu of assessment if someone hooked directly to the pipe. The property owner would pay the equivalent of an eight inch line stretching in front of their property.

Councilor Ballew said we need to consider how much it costs to run the city.

Mayor Leiken said the city is always getting new regulations from the federal government that brings additional costs.

Councilor Ralston said some properties are harder to move than others. He would rather see buildings such as the old Waremart and the old KMart develop. He would prefer extending the amount of time the business has to take advantage of the credit. Perhaps there could be a sliding scale for estimated value of property.

Councilor Lundberg said the park district also charges SDC's and they are looking at raising their SDC rates. She suggested tracking those costs so we know how much these fees total with both the city and the park.

Councilor Fitch said one person on the SDC Committee should represent parks.

Mayor Leiken said he agreed with Councilor Ralston about the size of buildings and a sliding scale for credit. It is important to look at flexibility. He asked if it was fair to hold a building that has been used for the same use for a long period of time to the same standard as a smaller retail space. He recommended having the SDC Committee reconvene and look at this issue. The community is changing regarding development and business.

Councilor Fitch said the committee could examine ways to use a sliding scale or assessing part of a building.

Councilor Ballew said SDC's are the way to pay for the impact of development, such as traffic and sewer storm drainage. The purpose of the SDC is not to create businesses, but to spread the costs evenly among the users.

Councilor Fitch discussed second assessments.

Councilor Ballew said as properties are vacant for a long time, they may have areas that are no longer up to code. Second assessments may apply to require them to upgrade.

Councilor Fitch said she was concerned that by charging excessive SDC's and requiring upgrades, that may deter development and redevelopment. This needs to be studied and discussed.

Councilor Pishioneri said there could be an appeal process and certain parameters set by the committee. If the city can facilitate that by setting those parameters by way of the committee, it could be considered.

Councilor Ballew said she feels something is being missed, but it should be researched.

Mr. Goodwin said staff would come back with alternatives and options for council consideration.

3. Discussion of Ballot Measure 37 Implementation Activities.

Planning Manager Greg Mott presented the staff report on this item. The council adopted an Ordinance implementing Ballot Measure 37 on November 29, 2004 and instructed staff to bring the matter back for modifications, if necessary, in three months. Attachment 2, included in the agenda packet, reflects suggestions received from the public as well as staff's observations concerning the Ordinance. In addition, staff requests council discussion of claims made in the urbanizable fringe, and the potential consequences of claims made on lands just outside the urban growth boundary.

Mr. Mott referred to Attachment 2 in the agenda packet which listed some proposed changes to the original ordinance. These suggested changes came to the city from the public and the attorneys from Springfield, Eugene and Lane County.

City Attorney Joe Leahy said he and Mr. Mott met and made minor adjustments to the ordinance. He said there is not enough case law yet to make any kind of substantial changes and the legislature is still in session. There is one case that was filed against Ballot Measure 37 by 1000 Friends. This case sets up two types of property owners; those that can ignore the law and those that cannot and that is unfair. That case will go through the courts. The city received an opinion from the Attorney General's office with insights regarding Ballot Measure 37. The issues before council are suggestions to make minor changes in the ordinance as listed in Attachment 2 in the agenda packet. He explained those changes. Section 5 was the most significant change, made at the suggestion of the Attorney General's office. This change would make Springfield's ordinance consistent with Lane County and the City of Eugene. There may be other changes that come up in the future as staff monitors the situation.

Councilor Ballew asked what would occur if everything applied to a property and the landowner subdivided their property and sold it.

Mr. Leahy said it would then be a nonconforming use.

Mr. Mott said it would imply a commitment on the city's part that the property should have been developed that way. The city is also looking at the Development Code including non-conforming uses because that is a problem. Once something is labeled non-conforming, it threatens the financial future of the property. Staff is considering including in the article on non-conforming use a statement that would apply to these claims. If a property owner were to go through the claims process and the city had conducted a waiver or modification of the ordinance, there is a direct connection with how that applies to non-conforming use. Until the courts determine the future of those claims, in terms of transferability or duration, it would be up to council to clarify that relationship. The city does not want to be in the business of granting non-conforming uses across town.

Councilor Ballew asked if that would mostly apply in unincorporated areas.

Mr. Leahy said the city has only had two claims, both of which do not appear to have evidence to support them in the city's initial investigation.

Councilor Pishioneri referred to Section (1) regarding appraisal. He suggested adding in Section 2.920 . . . owner of the property **or otherwise would financially benefit from the appraisal except for fees paid for the service rendered.**”

Mr. Leahy noted the change. He said staff would keep council informed. There is another continuing legal education scheduled for April which has a panel on it for BM37. Mr. Leahy said he is working on a meeting in August with Lane Shetterly, Joe Willis (attorney for Portland who handles large eminent domain claims), and Larry Shaw (previously the legal counsel for Metro in Portland, now working for Deschutes County on Ballot Measure 37 claims).

Mr. Mott said there were two senate bills to revise ORS 197 to include language the legislature feels answers some of these questions. Springfield has not had a lot of claims. He assumed most action would be between city limits and the urban growth boundary (UGB). When the Lane County Board of Commissioners adopted their ordinance, which is similar to the city’s, they conferred upon the two cities the ability to substitute the value in the process. The city’s laws are in affect in that area, but the county adopted them and transferred the responsibility to administer and supervise back to the city. There is more of a comfort level having the city council determine whether or not to overturn the ordinance. He said there is a three year window of time that people have to apply for a BM37 claim.

Councilor Ballew asked about the three years and if it was counted from the date of enactment. That was correct.

Mr. Mott said that is always in effect.

Mr. Leahy concurred and said it was a recurring period and goes on forever.

Mr. Mott said the city must always watch what they do regarding new ordinances. Anyone that buys property today in Springfield inherits the law and cannot make a claim that the law reduces their property value. People that own property as of the effective date of the statewide measure have three years from the effective date of that law to make a claim on a regulation that currently exists on their property that didn’t when they owned it.

Mr. Leahy suggested looking at the Attorney General’s opinion regarding Question 3, which states “Measure 37 provides for compensation if ‘a public entity enacts or enforces’ certain laws. Which public entity is responsible for compensation to the claimant if the Oregon legislature enacts a law, but a county, or Metro, or a city enforces it?” Predictably, the Attorney General’s Office answered that “Generally, the public entity that enforces the law is responsible for paying it”. Question 4 asks “Does enforcement of a state statute or rule by a local government trigger liability for the state?” The Attorney General answered “No”. Mr. Leahy suggested talking with the League of Oregon Cities (LOC) about those two issues.

Mayor Leiken commended Mr. Leahy and Mr. Mott for their work on this issue, understanding this can’t be specific at this time. He appreciated all they have given to the council and the city. He noted that this measure was approved by sixty-one percent of the voters. This ordinance gives council some direction.

Mr. Mott said he would bring the draft ordinance back for adoption on April 4, 2005. The legislature may act before the first court case. If that is the case, staff will provide an update to council or propose additional amendments if they are needed.



Mayor Leiken asked Ms. Pappas about the legislative session topics. He asked if there was a committee who was discussing these issues.

Ms. Pappas said during the LOC lunches each week, little has been discussed regarding Ballot Measure 37. She said there was a lot of activity around Urban Renewal, Enterprise Zone, and Collective Bargaining. She said she would bring it up for discussion during the upcoming Legislative Committee Meeting on March 21.

Mayor Leiken said he would like to know who might be working on these committees that could be contacted.

ADJOURNMENT

The meeting was adjourned at 6:40 pm.

Minutes Recorder – Amy Sowa

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Sidney W. Leiken  
Mayor

Attest:

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Amy Sowa  
City Recorder